

Application Serial No. 10/528,172
Attorney Docket No. 1751-377
Response to Rest. Rqmt Dated 5/16/2007
Response dated 6/18/2007

Remarks

The following remarks are submitted as a full and complete response to the Office Action issued on May 16, 2007.

The Office requires an election of claims to be prosecuted in this application from four groups. In response, Applicants elect Group I, claims 1-5, which are drawn to an isolated peptide complex comprising a first peptide and a second peptide, without traverse. However, Applicants respectfully request that, as indicated in the Office Action, once the claims of Group I (product claims) are found allowable, withdrawn process claims (Groups II and III) that depend from or otherwise include all the limitations of the allowable product claim should be rejoined. In relation to this restriction requirement, the Office Action incorrectly indicated that the International Preliminary Examination Report (IPER) found claims 1-5 to be not novel. Applicants note, however, that the IPER dated January 12, 2005, found claims 1-13 to be novel after considering the amended claims submitted on November 15, 2004. The claims 1-13 currently pending in the instant application are the same as those considered in the IPER. Therefore, Applicants respectfully request the Office's acknowledgment of this fact.

The Office further requires Applicants to elect, in the elected Group, one of the first peptides and one of the second peptides. In response, Applicants elect (a1) phospholipase D (PLD) from the first peptides and (a2) actin from the second peptides, with traverse.

Application Serial No. 10/528,172
Attorney Docket No. 1751-377
Response to Rest. Rqmt Dated 5/16/2007
Response dated 6/18/2007

The members of the first peptides are defined in Markush format. According to MPEP, in Markush claims, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in PCT Rule 13.2, must be considered to be met when the alternatives are of a similar nature. See MPEP 1850. at 1800:97-98. The Markush alternatives of the first peptides are of a similar nature because these are all related to PLD. In addition, since the claims 1-13 are found novel in the IPER, there is a specific technical feature which should be sufficient to meet the unity of invention requirement with respect to claims 1-5.

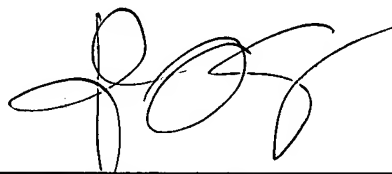
The Office also requires Applicants to elect one species from the first peptides and one species from the second peptides in the claims of the elected Group. In response, Applicants elect (a1) phospholipase D (PLD) as species from the first peptides and (a2) actin as species from the second peptides. Claims 1 and 2 read on the elected species.

Applicants note that the elected species would be the same as the species that would be elected in response to the above second restriction requirement. As explained above in connection with the second restriction requirement, Applicants respectfully submit that the alternatives of the Markush groups, which are subjected to the second restriction requirement, are entitled to be examined together in the instant application. Therefore, Applicants respectfully request the Office withdraw the second restriction requirement in favor of the instant election of species if the Office were to maintain the election of species requirement.

Application Serial No. 10/528,172
Attorney Docket No. 1751-377
Response to Rest. Rqmt Dated 5/16/2007
Response dated 6/18/2007

In light of the foregoing, Applicants submit that all outstanding rejections have been overcome, and the instant application is in condition for allowance. In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such extension, together with any additional fees that may be due with respect to this paper, may be charged to Deposit Account No. 02-2135.

Respectfully submitted,

By 

John A. Evans, Ph.D.
Registration No. 34,627
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
1425 K Street, N.W., Suite 800
Washington, D.C. 20005
Telephone No.: (202) 783-6040
Facsimile No.: (202) 783-6031

1407676